

MINUTES – OCTOBER 1, 2012

The Caswell County Board of Commissioners met in regular session at the Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, September 17, 2012. Members present: Nathaniel Hall, Chairman, Cathy W. Lucas, Vice-Chair, William E. Carter, Jeremiah Jefferies, Gordon G. Satterfield, Kenneth D. Travis and N. Kent Williamson. Also present: Kevin B. Howard, County Manager, Brian Ferrell, County Attorney, and Angela Evans representing The Caswell Messenger. Paula P. Seamster, Clerk to the Board, recorded the minutes.

MOMENT OF SILENT PRAYER

Chairman Hall opened the meeting with a Moment of Silent Prayer.

PLEDGE OF ALLEGIANCE

Chairman Hall asked the Board of Commissioners and the citizens present to stand for the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Travis moved, seconded by Commissioner Jefferies to approve the agenda. The motion carried unanimously.

APPROVAL OF CONSENT AGENDA

Commissioner Jefferies moved, seconded by Commissioner Travis to approve the Consent Agenda.

Commissioner Lucas stated “Chairman Hall I have just a slight correction on page 12 in the minutes. Just one word there, I believe, that changes the context of the sentence. It is the third paragraph down and I think it is the sixth sentence. It should read where it says ‘I know for a fact that the Town of Yanceyville threatened to shut this project down because they could not get a response on this project and now we are being told that we are under some kind of time constraint and that it is a critical path and I understand your point there but I sort of take issue the fact that it is put back on the Board of Commissioners’. It is not ‘take issue the fact’ it is ‘take issue with the fact’.

Upon a vote of the motion, the motion carried unanimously to approve as amended.

The following items were included on the Consent Agenda:

- A. Approval of Minutes of September 17, 2012 Regular Meeting
- B. FY 2012-2013 Budget Amendment #2

PUBLIC HEARING – SUBDIVISION ORDINANCE VARIANCE REQUEST –
MR. & MRS. PHILIP JOHNSON

Commissioner Travis moved, seconded by Commissioner Jefferies that the Board enter into a public hearing to receive comments on the Subdivision Ordinance Variance Request for Mr. & Mrs. Philip Johnson. The motion carried unanimously.

Chairman Hall stated “This is a quasi-judicial hearing so I will ask our attorney to please explain to everyone what to expect from the process that follows.”

Mr. Ferrell stated “Mr. Chairman what is before you tonight is a variance application and a variance from the subdivision ordinance regulations. The variance provisions of that ordinance requires this Board sitting as Board of Adjustment to hear the applicant’s presentation and application for variance sitting in your capacity as a quasi-judicial decision maker which means that you will be listening to facts and entering facts into the record and then applying those facts to the standards of the ordinance to make your decision on this variance application tonight as a quasi-judicial body. What’s required is that each member who speaks tonight be sworn in and offer this Board sworn testimony and then at the conclusion of all of the evidence that is presented to the Board there is a series of findings and facts that need to be made by this Board again sitting as the Board of Adjustment as it decides the relevant questions before it tonight. Mr. Collie, Planning Director, has laid out in a memorandum in your packet the specific findings that need to be made. I can certainly talk with you more about those individual findings as we go through this evening after the applicant has had the opportunity to present their application to you.”

Chairman Hall asked “Ms. Seamster, are you prepared for the swearing in? Okay everyone that is here tonight that plans to speak would you please stand and come forward so you can be sworn in.” The Clerk to the Board swore in Mr. Brian Collie and Mr. Philip Johnson.

Mr. Brian Collie, County Planner, stated “Good evening commissioners. Before you tonight like it has been stated is a variance to the subdivision ordinance. This variance is for Mr. & Mrs. Philip Johnson. They are requesting the variance for their family property located off Chapman Road at tax map 5 parcel 10. At the end of Chapman Road there is a 45 foot easement that goes approximately 3000 feet into Mr. & Mrs. Johnson’s family’s property. Currently there are four lots there that are under four acres, being non-exempt lots. The Johnson’s currently live there on a 3 ½ acre parcel. They are looking to build a new house. They have recently adopted three children and they have outgrown their current home. That is the reason for the request to do the fifth lot of 3 ½ acres to build a new home. Mr. Johnson, this is his family property. He has lived there all of his life and he would like to continue to do so. Under the subdivision ordinance they would need to bring the current road to that standard. That is what the variance is for, is the road standard. Currently the gravel width is 10 feet. Under Article 10 of the subdivision ordinance, what Article 10 is a previously existing private road that was there before 1974 when the first area was plowed for Caswell County. This road does qualify for that. It has been there since 1974 but that does not mean that it is completely exempt. They would still need to meet the road width of the subdivision ordinance and that being for a family subdivision 16 feet with at least 4” of compacted gravel. Currently there is 10 feet gravel width with a 45 feet easement. They

would need to, in order for me to sign off on the survey, have 16 feet and 4” of compacted gravel. That is what the variance is for. The Johnsons’ just don’t believe that is feasible to spend that amount of money to widen the road to do the fifth lot. On 8-28-2012 the Caswell County Planning Board made a recommendation to the Board of Adjustment to approve the variance request with a 4 to 3 vote.”

Mr. Philip Johnson stated “Good evening. I just come before you tonight asking as Mr. Collie said for a variance. Family farm, 109 acres. It has been in the family since 1947. We are trying to keep our family there. As Mr. Collie alluded to we already have a house there. When we move and if we are granted this variance we are going to build a new house and once we move out of that house my brother is going to buy the house that we are vacating. So it will still be family that is there. Currently there are four homes on this family farm area and those four are all family. It is myself, my sister, her husband, my father and my cousin. It is all family there and we have been there since 1947 when my grandfather bought the land. We have subdivided it over the years. Unfortunately I did not know this was the rule the last time I got the acreage that I have currently. We are just looking to stay on the family farm and we are trying to do that without a lot of expense from out of pocket.”

Chairman Hall stated “Thank you sir. Now there are certain things that this Board must consider in granting a variance and I will have to ask you are you aware of those things because the Board would assume that you have already addressed these areas or these issues. Have you informed him Mr. Collie?” Mr. Collie responded “I have.” Chairman Hall continued “Mr. Collie has informed of these?” Mr. Johnson responded “Yes.”

Chairman Hall asked “Fellow commissioners you have heard the request. Do you have any questions for Mr. Johnson or Mr. Collie?”

Commissioner Lucas stated “Chairman Hall I would just like to make a comment or maybe it is a question. I know that you currently keep the road up right and you invest how much a year?” Mr. Johnson responded “Yes ma’am. In the past the family has invested about \$4900.” Commissioner Lucas continued “That is sort of a yearly expense.” Mr. Johnson responded “Well since the initiate big investment we are spending right around twelve to eighteen hundred dollars a year gravel, equipment that we keep purchasing, scrapes and different things to keep the road up and maintained, keeping the road cut, keeping the tree limbs and everything off of the road.”

Chairman Hall stated “Fellow commissioners I am going to read through what we have in our agenda so the public will know what we are looking at.

Before the Board of Adjustments may grant a variance, it shall make the following findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based.

- 1. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance. In order to determine that there*

are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

- a. If he complies with the provision of this ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of this ordinance that will make possible the reasonable use of his property.*

In Item 1 there are five sections of Item 1. As we go through this we can come back. These are the things that we must decide upon to get to a variance.

- b. The hardship results from the application of this ordinance to the property rather than from other factors such as deed restrictions or other hardship.*
- c. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.*
- d. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.*
- e. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.*

That completes Item 1 of the four items. So the question that we have to answer now is in Item 1 is does item a, b, c, d or e exist or not exist. Item a. Did the applicant present information to support item a?" Commissioner Satterfield asked "Are you going to poll us?" Chairman Hall responded "Yes. We have to go through all of these and make findings. At whatever point that we cannot find all of these findings or facts that is where we stop. We need to get a consensus if not a poll."

Commissioner Lucas asked "Are we determining if it is a practical difficulty or an unnecessary hardship on each one of these factors?" Chairman Hall responded "We have to answer each question. They may be worded differently." Commissioner Lucas continued "But wouldn't we need to know if it is a practical or are they one in the same or..." Mr. Ferrell responded "The way this section of the ordinance is set up is Item 1 is that you have to find the affirmative that there are practice difficulties or unnecessary hardships and so the ordinance says you can have a practical difficulty and unnecessary hardship if you find in the affirmative on the following four items that Chairman Hall just read out. So essentially you will get to the practical difficulty or unnecessary hardship issue by going through each of these four items. If you are able to answer

in the affirmative on *a* through *e* then essentially you have decided that there are practical difficulties or unnecessary hardships justifying that portion of the variance.”

Chairman Hall stated “So we have to answer yes to items a, b, c, d and e. Item a.”

Commissioner Satterfield responded “Mr. Chairman my vote would be affirmative for a through e.” Commissioner Lucas stated “Chairman Hall I will follow suit. I will be affirmative for a through e.” Mr. Ferrell stated “If it is procedurally helpful you can take it in a form of a motion of Commissioner Satterfield’s motion to approve a through e in affirmative if that helps with the tallying. It may make it easier.”

Commissioner Satterfield moved, seconded by Commissioner Lucas that a through e be in the affirmative.

Chairman Hall stated “I have to personally question item c. *The hardship is due to the physical nature of the applicant’s property, such as its size, shape, or topography, which is different from that of neighboring property.* There was nothing presented in his presentation that said that there was anything different from his property other than he did not want to spend the money to fix the road.” Commissioner Williamson responded “Also it was his family farm. That is different from the neighboring property. Wouldn’t that be it?” Chairman Hall responded “No I think they are thinking in terms of the land itself. We have the subdivision ordinance that applies when we get so many homes, you have to do certain things and that is why he is here. One of those certain things is the road is gravel and the gravel has to be extended from 10 feet to 16 feet. I am questioning item c because there is no difference in his property or the family property from the neighbors property at least he did not present it that way.” Commissioner Lucas responded “Chairman Hall there are differences in the size, shape and topography of this property as opposed to the surrounding properties.” Chairman Hall asked “Like what?” Commissioner Lucas responded “The size of his property is different. Is that correct Philip?” Chairman Hall continued “You said it is different; tell me the difference in the size and the shape.” Commissioner Lucas responded “I don’t have that information. Oh you are saying from other farms?” Chairman Hall stated “Not other farms, other properties that is the wording.” Commissioner Lucas responded “The neighboring properties. It would be different in size, shape and topography.” Chairman Hall stated “I don’t think you understand my question. I suspect from a literal standpoint that every property is different. We are not talking about literal here we are talking about the regulations that we are enforcing. I think it means why should we treat this property differently from any other property in the area is the question. What makes it different? Does it have a canyon? Does it have a gorge or something like that that the rest of the property in the area does not have?” Commissioner Lucas responded “The topography is a little unusual on Chapman Road, I would say. Wouldn’t you Mr. Collie?” Mr. Collie responded “Yes.” Chairman Hall stated “Again I am questioning it and I will question item e *the hardship is peculiar to the applicant’s property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.* In his presentation Mr. Johnson did not show any hardship that is peculiar to this property. He just simply said he did not want to spend the money again no hardships there.”

Upon a vote of the motion, the motion carried by a vote of six to one with Chairman Hall voting no.

Chairman Hall stated “Item 2 *That the variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit.* Is this a yes?”

Commissioner Satterfield moved, seconded by Commissioner Jefferies for Item 2 in the affirmative. The motion carried unanimously.

Chairman Hall stated “Item 3 *That in granting the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.* Is this in the affirmative?”

Commissioner Satterfield moved, seconded by Commissioner Travis for Item 3 in the affirmative. The motion carried unanimously.

Chairman Hall stated “Item 4 *In granting the variance, the Board may attach such conditions regarding the location, character, and other features of the proposed building, structure, or use, as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.* Are there any special conditions to be attached? With there being none I think that is all of the four items that we have to consider. The Board has voted that all four items are in the affirmative therefore the variance will be granted.”

Commissioner Travis moved, seconded by Commission Williamson to resume regular session. The motion carried unanimously.

PUBLIC COMMENTS

Chairman Hall opened the floor for public comments.

Chairman Hall asked if there was anyone that would like to speak during Public Comments. With no public comments Chairman Hall declared Public Comments closed.

INLINE GRINDER/LIFT STATION/ CHANGE ORDER APPROVAL

Mr. Howard stated “This has been discussed on two different occasions. Mr. Doyne is here just in case you have some questions since the last time it was discussed or if there is any additional information that the Board would like to ask for.”

Commissioner Lucas asked “Did we get a breakdown on the individual cost of an upgrade to the existing station as opposed to the new? Did we get those numbers?” Mr. Howard responded “No we don’t have those.” Mr. Doyne added “We would have to do a complete redesign of the project documents. If we were to go back to the existing lift station and put a muffin monster

down there so it would be a..." Chairman Hall asked "Hold on sir. When we met Thursday Mr. County Manager was that not something that we asked for, a cost breakdown?" Mr. Howard responded "It was asked if we had one at the meeting and it was discussed by the engineers present. They did not have one and it would be hard to do that without putting documents together. I don't remember if that was asked for, for this meeting or not." Chairman Hall continued "So we don't have that cost estimate?" Mr. Howard responded "No sir."

Chairman Hall stated "Fellow commissioners as we move forward I don't think we are ready to address Item 7. We need a cost breakdown on this. Are there any other information that you would like please request that from the County Manager at this time."

Commissioner Lucas stated "Chairman Hall I would just like to add that initially, I think it was back the first of this year Mr. Doyne it was actually discussed prior to meeting with the Town of Yanceyville as to whether we were going to do an upgrade or at that time we were doing the upgrade and we were told that all the parts there had been recently changed. New pumps put in recently and that sort of thing. You are telling us now that we would need to get a complete redesign of this lift station that is in place?" Mr. Doyne responded "Yes there would have to be a survey of the existing lift station. I have asked the city personally for drawings and plans and they don't have any of these so yes we would have to get an architect, an engineer, a surveyor to come in here to determine what is going to that existing lift station, what components are in there, what would have to be replaced, and then they would come up with the scope of work, a drawing and everything else in order to proceed." Commissioner Lucas asked "And the city does own that currently, is that right?" Mr. Doyne responded "Yes ma'am." Commissioner Lucas continued "And they are maintaining it and keeping it going currently?" Mr. Doyne responded "Yes ma'am, as far as I know."

Commissioner Carter stated "With the existing lift station you would have to completely replace the wet well. The flow from the jail has a 2" force main. That 2" force main will have to be changed to a minimum of a 4" or maybe even a 6" force main. As far as the muffin monster the city does not have one. With an upgrade you will still have to purchase a grinder to go to the existing lift station. What I heard from the engineers the other day it is cheaper to install a new lift station and muffin monster. The big cost is upgrading the force main. You would have to take that out force main out and install a new one." Chairman Hall responded "As I recall that is what the group of engineers from both sides said. Do we need to give them an okay to move forward on the architectural stuff?"

Mr. Howard asked "I guess the question to ask is does the Board want, well to get an exact cost on the cost to upgrade that we would have to go in and do drawings and do plans to bid it out to get you an exact cost. I can get you an estimate like what we do when we get an estimate prior to it going out to bid and they would be a good idea of the cost of it. We can get an estimated cost based on other projects that have been done but to get the exact cost to upgrade that lift station you would have to have those drawings done and a bid taken." Chairman Hall responded "I understand that. I will have to go back to the meeting. When we talked to the architect and the engineers I think I remember asking if they agreed professionally on what we needed and they did agree." Mr. Howard stated "Yes sir." Chairman Hall continued "If they agreed the question is what do we do next. We need to give them some directions on something."

Commissioner Carter stated "The only thing Mr. Chairman is the existing lift station is only designed to handle 70 gallons per minute and estimate from the new jail is 120 gallons per minute. I want to remind everyone that that lift station does not only take care of the jail it takes care of the strip malls, North Avenue and Wall Street as well." Chairman Hall responded "Again that is what they told us. If I recall the recommendation from both sides was to put in a new lift station. Is that not correct?" Commissioner Carter responded "Yes, the recommendation was to put in the muffin monster and the lift station." Chairman Hall stated "That is right. There were two things the lift station and the grinder. Was that not the recommendation?" Mr. Howard responded "Yes sir."

Commissioner Lucas asked "Do we have a breakdown on the cost of both of those, the lift station and the muffin monster? How much is the muffin monster?" Mr. Doyne responded "I have pricing in for both items and that is the price we have you, the HM Kerns price. They have it broken out as the grinder is roughly \$65,000 and the lift station pumps are \$24,000." Commissioner Lucas asked "So the pumps are roughly \$24,000 and the grinder is \$65,000?" Mr. Doyne responded "Yes ma'am." Commissioner Carter asked "So the total was around \$109,000 for everything?" Mr. Doyne responded "Yes sir." Mr. Howard responded "The \$65,000 would be just for the grinder pump, the muffin monster." Mr. Doyne added "This price includes routing some underground sanitary sewer lines and like you said the force main and stuff like that."

Commissioner Travis stated "From what I understand from the other day the Town's pump station would take care of it." Mr. Doyne responded "It would take care of it if we upgraded it. That is what they are indicating. We would have to do a lot of upgrades in order to get that pump to work for the new facility." Mr. Howard added "We keep calling it an upgrade but basically it would be a whole new pump station." Commissioner Travis stated "That is exactly what they said the other day. It will not handle it unless you go in there and redo the whole thing. By the time we get an engineer and everything we will be throwing money away. We need to build the new one and quit worrying about it. Has everybody thought about all of that cost?" Mr. Howard responded "That is why the recommendation from those involved in the project was to build a new lift station to serve just the jail. The cost to upgrade that lift station to do 150 to 180 gallons a minute will be a whole lot more than \$44,000 to do the small lift station just for the jail. Either way you go you will still have the cost for the grinder which is \$65,000." Commissioner Travis stated "The worst part of this is they knew when they started the jail over there we did not have this and it should have been there to start with. That is the whole thing that bothers me. You can't build a house without a septic system." Mr. Howard responded "I agree."

Commissioner Carter stated "I agree with what the County Manager said upgrading the existing lift station is going to cost more. The question that this Board has to decide is do we want to get into maintaining a lift station and paying the power bill or would you want to spend the money to upgrade the existing lift station. This right here would be cheaper than upgrading the lift station but you have to consider that you will have a power bill and pay for the maintenance and upkeep." Mr. Howard responded "We can do the maintenance ourselves. We do the maintenance on the lift station at the industrial park."

Commissioner Lucas stated "I was just going to say but Commissioner Carter continued with what I was going to bring up, the maintenance expense for the new system and who is going to maintain it and the additional cost there and we don't have any numbers on that." Mr. Howard responded "Currently we maintain the lift station at the Pelham Industrial Park. It is county owned. Our actual maintenance cost as far as upkeep and repairs that station has been at a minimal. We have not had to replace the pumps or any major repairs to that station in the five years I have been here. The power bill probably runs around two or three hundred a month for that lift station."

Chairman Hall asked "What do we need to do to get a cost breakdown so we can make a decision? Do we need to have the architects to do some work?" Mr. Howard responded "If you want a cost estimate to upgrade that facility the engineer will have to come up with that number." Chairman Hall continued "What about the new facility?" Mr. Howard responded "My numbers are based on what it cost us in Pelham." Chairman Hall asked "What about to install a new lift station and grinder? What do we need to do to move this forward?" Mr. Howard responded "We need a motion to approve the low bid for that project if you want to do that." Chairman Hall continued "I am just trying to see what we need to do to move forward. If we have a motion to approve the low bid are we going to look at all the other options?" Mr. Howard responded "No sir if I understand correctly if there is a motion for this low bid and it is approved to install that lift station that we have in our packets."

Commissioner Jefferies stated "I thought when the engineers were here last Thursday they said that the capacity runs for about 4 hours but if we upgrade the system they know it will be enough." Chairman Hall responded "Before they left I did not get that final understanding. I thought I asked all of the engineers and I thought they recommended putting in a new lift station. They talked about peak performance and peak flow and a lot of other things. That is what I was left with."

Commissioner Lucas asked "I would like to direct this to the attorney please. This was omitted from the bid package in the contract, is that correct?" Mr. Ferrell responded "You see in the first line of this letter from Brennan here what happened." Commissioner Lucas continued "My point is whose responsibility is it at this point in time?" Mr. Ferrell responded "Well the owner of the project is responsible in the first instance for approving the change order and to move the work on. If you are asking me as per the construction documents is there claims to be made for the omission if you will of this grinder I think that is a legal analysis that if you would like for me to engage in we can talk about it but I am not prepared tonight to assign legal responsibility for the cost increase. I think what we do know is that you need this piece of the project done in one form or fashion in order to move the project on so whether not there are claims down the road that need to be done there has to be some change order one type of another to move the project on."

Commissioner Carter moved, seconded by Chairman Hall to award HM Kerns as the low bidder for the new lift station and grinder.

Commissioner Williamson asked "With us approving this could we have something that we could look back at to see if there are any legal aspects I mean what we can do here. I think we

need to take the suggestion of our attorney and look at that so that we will not lose it and so we are just moving on. The project can move on and we can look at this at a later time to see if we can get any of the cost back.” Chairman Hall responded “We can do that. What I understood him to say was claims may or may not be viable. What you are suggesting is if this is approved, that we will go back and ask our attorney to investigate any possible claims.”

Commissioner Travis asked “Are you sure this is all that system will take to get everything hooked up and everything?” Mr. Doyne responded “Yes sir.” Commissioner Travis continued “There ain’t going to be no coming back if this does not work?” Mr. Doyne responded “No sir. I am not a designer but we paid designers to do this job. They made this pump so it could hold more. I believe they have taken everything into account that this pump will need to work.”

Commissioner Lucas asked “Haven said that I am just a little bit concerned now that it is over kill on the project if it is being constructed or designed for future expansion then that tells me probably what we have in place an upgrade probably would have been suitable. I am still concerned about the maintenance part of it and what happens after that. I know what it happening right now with the one the Town has down there now, they are experiencing some issues every month or every so often they are having to have it pumped off.” Mr. Howard responded “Their issues are because they do not have a grinder or a muffin monster between the two buildings. That is why that is the key and why we wanted to have the grinder pump included. When we started talking about this we wanted a grinder so when we have to maintain the jail ourselves it reduces the maintenance cost. It extends the lifetime of the pump which is the major cost of maintaining that system. Installing the grinder pump will elevate some of the issues the Town has had with the current lift station. That is why they were making sure that we were going to include that if we were going to upgrade that lift station.”

Commissioner Travis stated “I thought what they said the other day was it was going to cost like the dickens to hook up to the old one because of the lines and everything. That is what was brought up the other day.” Mr. Doyne responded “Yes sir.” Commissioner Lucas stated “But we don’t have any of that definite information. There is a lot of speculation.” Commissioner Travis continued “We may spend more money finding out what it will cost to upgrade when we could be installing this one that is what I am scared of. Nobody knows what it is going to cost to upgrade the system.” Mr. Doyne responded “No sir, there has been no estimates done.” Commissioner Travis asked “What would we have to do to get that done?” Get an engineer to figure it?” Mr. Doyne responded “We would have to have some people look at it, yes sir.”

Commissioner Jefferies stated “This line will be more of an upgrade. We may need this for a new courthouse later.” Chairman Hall responded “He said it is more than enough capacity for the building.” Mr. Doyne stated “That is typically the way they design things, commissioners, they are not going to design it just for that demand. Engineers typically have fudge factor in there. They will say well if an emergency does happen we are not going to have this system overwhelmed. Like they said that pump down there only runs about 4 hours out of the day and there is always that factor in the design from my understanding.”

Upon a vote of the motion, the motion carried by a vote of five to two with Commissioner Lucas and Satterfield voting no.

CONNECTOR BETWEEN DETENTION CENTER AND COURTHOUSE

Mr. Howard stated "Again, we discussed this at the special meeting held last Thursday. Mr. Doyne is here just in case there are any questions or information that you would like to have. If any commissioner would like to meet out there and look to see where the connector will be coming into the building that may be helpful in looking at this process. This is not a critical path issue like the grinder pump is. It is still wanted but it is not critical in getting the building operational."

Chairman Hall stated "I had this put on the agenda because it is an issue that needs to be resolved. It is my understanding that this Board has never taken a position on how this connector will connect from the new building to the courthouse. If the Board needs to take a position, the county manager is saying it is not critical tonight to move forward. We do need to think about it and I will put it back on the agenda for the next meeting if we don't take any action tonight."

Commissioner Carter asked "Mr. Manager I was looking at the floor plan for the overhead connector. What would happen if you had court downstairs?" Mr. Howard responded "If you go directly into the courtroom depending on what type of court is going on you would not be able to use that connector to get to the downstairs courtroom. You don't want to take an inmate into the upstairs courtroom to get to the downstairs courtroom." Commissioner Carter continued "If you went with the ground level connector you would be able to get the inmates to both courtrooms." Mr. Howard responded "Either the on grade connector or the second option for upstairs. The most expensive option would be to put the connector in the second floor hallway. Either one of those would work. They would have to take the inmates upstairs or downstairs once you got into the building. If you come in the ground level you would use the stairs to get upstairs and if you come in the top floor you would use the stairs to come downstairs. In both cases we would want to install a doorway in that concession area so when they come out the public cannot access that area." Commissioner Carter asked "Either way it would be enclosed?" Mr. Howard responded "Yes sir. The on grade level will be enclosed probably a little bit different than the second floor connector."

Commissioner Satterfield asked "A couple of questions Mr. Chairman if I can, I would like to get an answer on that I asked at the last night and I will ask again tonight. Do we have any idea how much we are currently in for on the high rise over there, the tower?" Mr. Doyne responded "I will get a price on that. They are supposed to be working on that." Mr. Howard added "They are trying to get an estimate on how much it cost to do that." Commissioner Satterfield continued "And at what point, and I am not sure who is meeting with who because I have never had any names called I have heard the Courthouse Committee or who, but does anyone have any idea when someone had a meeting with anyone in the court officials to discuss how they were going to bring the prisoners into the courthouse? When was that date and who was there? If you don't know tonight tell me at the next meeting." Mr. Howard responded "I can give you three meetings that I was involved in and in my recollection it was discussed. February 2011 the Sheriff's Association was here doing their study. My recollection was it was discussed coming into the courtroom in that meeting with the Courthouse Security Committee. In March..." Commissioner Satterfield asked "Who is the Courthouse Security Committee?" Mr. Howard

responded "I will have to get that. It is part of the Sheriff's Office, representatives from the court system there. In March of 2011 the Courthouse Security Committee met my recollection was and I do not have minutes of this but my recollection discussions were taken place in the courtroom and it was coming into the courtroom with members of the Courthouse Security Committee." Commissioner Satterfield continued "Was there talk about a specific place it was coming in at? A specific spot in the courtroom?" Mr. Howard responded "I would like to say because of our discussion this whole time was coming in the windows beside the jury box that is what was said. I am not going to sit here and say they understood it that way because I don't know but it was discussed coming into the courtroom. Then again with the Rural Courts I was not there the whole time for that meeting but in those meeting minutes it refers to coming into a non-public area which in my opinion would be the courtroom. The Rural Courts meeting was in May or June of 2011. It was discussed at that meeting but I was not there for the whole thing but in that study it talked about going into a non-public area which I am assuming would be the courtroom because anywhere else would be a public area." Commissioner Satterfield stated "I read that. It mentioned that but it has no mention of where. Can I get a list of those dates?" Mr. Howard responded "I have those exact dates on my calendar." Commissioner Satterfield continued "Do you have a record of who was at those meetings?" Mr. Howard responded "I can get a record. I was just attending those meetings. I was not the person in charge of those meetings and I did not keep a record." Chairman Hall asked "Commissioner Satterfield let me ask this would it be more helpful if this Board met with the Courthouse Security Committee and whoever the other parties are and just resolve it?" Commissioner Satterfield responded "That may be. Can I ask one more question? What was the current, when we first talked about this and Brennan gave us a price to add this tower, do you remember what that cost was?" Mr. Howard responded "To add the tower? I am not sure on that. The tower was included in the construction cost that was bided. There is an allowance of \$400,000 in the budget for the project for the connector." Commissioner Satterfield asked "So there wasn't anything broken down as far as okay this is the jail and this is going to cost this much. This is the tower and this is going to cost this much?" Mr. Howard responded "No sir if we had that breakdown we would be able to give you that number for the tower. There was not a breakdown on what it cost to have that third floor for the stairwell." Commissioner Satterfield continued "So all of this was from the conception of the original drawing?" Mr. Howard responded "The original drawings had the third floor to leave from that area and go into the second floor." Commissioner Satterfield asked "And we had the original drawings when?" Mr. Howard responded "I can't give you an exact date on that. I know they were discussed..." Commissioner Satterfield continued "I know it has been over a year. They had the original drawings before they broke ground." Mr. Howard responded "Yes sir. You approved the site plan and all of that." Commissioner Satterfield stated "So it has been about a year and a half ago." Mr. Howard responded "My recollection is she came in early 2011." Commissioner Lucas added "February 10th." Mr. Howard continued "And during that meeting she talked about going into the courtroom." Commissioner Satterfield continued "And it is just now coming to our attention in the last 30 days so we have a problem connecting this thing. That is what I don't understand is how something has gone a year and a half knowing that is going to be connected to the courthouse and now right at the tail end of the project we find out that we have a problem. It is not a good way to conduct business. Seriously somebody has made a bad mistake and of course I think it is going to end up in your hands Mr. Attorney before it is all over with."

Commissioner Lucas stated "I was just going to go back to some of the dates that Commissioner Satterfield was questioning about when Ms. Geraghty came. February 7, 2011 and I think we have been over this when the original discussion first came into play. It was the February 10th meeting I think that we had a package laying in front of us when we got here that may have had that change in there with that tower." Mr. Howard responded "I will have to go and look to see what we had in the packet." Commissioner Lucas continued "I think it would be helpful if we could get that package and I can go back and look myself but if we could get that bid package together because I think that is where you are going to see the tower being proposed maybe in that information. It was lying in front of us. It was not in our agenda when we got to the meeting that night." Mr. Howard responded "If I recall there was a difference between that and what you were given in your agenda." Commissioner Lucas stated "We originally talked about having the bridge from the jail to the courtroom and she said there was an allowance in there for that and that they had identified the windows where they could bring the inmates into the jury box in the gallery and that structurally that would take more time. Then on the 6th of June there was a meeting, they had reevaluated a portion of the allowance that allowed for the walkway from the jail to the courthouse. We reevaluated our estimate because we include a couple of other things that did not need to be included in there and we were able to bring the cost down. I am wondering if that is what the couple of other things may have been." Mr. Howard responded "I think they had the cost to add that third story in the allowance and in the bid packet. They realized they had it in two places so they took it out of the allowance price." Commissioner Lucas stated "So it was in there twice."

Chairman Hall stated "Again we are going to get cost information on the tower. I am suggesting that we get the Courthouse Security Committee and those others with invested interest in this project and invite them to the next meeting so we can clarify some things. We know what the construction manager proposes and we know what the county manager has proposed. What we have to do now is make a decision. We can make it based on what we had initially or what we get at the next meeting. We have to make a decision. We will put this back on."

RECESS

The Board held a brief recess.

DISCUSSION OF MUNICIPAL PARKING LEASE AGREEMENT

Chairman Hall stated "I asked the clerk and the county manager to put this on. If you recall about a year or so ago we had an agreement with the Town to pay them I believe it was \$2500 a year for parking. We did this for a year but the next year we did not renew it. From time to time I have had this mentioned to me again. So I asked the clerk and the county manager to put this on the agenda so we could take action before the next joint meeting so the Town will know where we stand on this item."

Commissioner Carter moved, seconded by Commissioner Williamson due to enter into the contract with the Town for \$2500 a year to use the municipal parking lot and to take it out of the court fees.

Commissioner Jefferies asked “Is the same space we had before?” Chairman Hall responded “Yes.”

Mr. Ferrell stated “Mr. Chairman I just would like to point out what you have before you is a memorandum of understanding. If the idea is in concept to approve a lease agreement for \$2500 and we can work on the language in the future that is fine. This memorandum of understanding is a historical document, it talks about being a memorandum of understanding in the title and then down in the third paragraph it talks about a lease agreement so I am just a little bit confused about what this document is. If you want to include the principal idea of the lease and then we can fill in with some language later.” Chairman Hall responded “We can do that later. I just wanted to get the Board’s views one way or the other so we would have this so we could talk to the Town about it.”

Commissioner Lucas asked “Chairman Hall didn’t we construct a new parking lot to alleviate the pressure of the parking for the court system? The reason I bring that up is I talked to a court official and was told just in the last week parking did not seem that much of an issue anymore since the construction of that new parking lot. I would question the real need for it at this point in time. And one other thing, I did come by one day and took notice and almost turned around to take a picture of it and I pointed it out to the court official that I was talking with that I think there were six law enforcement vehicles parked at the front of the courthouse, along the front, taking up six of the spaces or however many were available at the very front that is where they were parked. If they could park somewhere else that would free up additional space at the courthouse. I think it might be beneficial to talk with the court personnel to find out if it is pressing need again. I don’t know who you specifically talked with or who addressed it with you. Was it someone from the Town or from the court officials?” Chairman Hall responded “Town.” Commissioner Carter added “The court officials have told me also.”

Chairman Hall stated “I thought we had addressed the issue with the parking.” Commissioner Lucas responded “We did. I was told last week that it is not a problem.”

Upon a vote of the motion, the motion carried by a vote of four to three with Commissioners Hall, Lucas and Travis voting no.

APPOINTMENT OF CYBER SECURITY AD HOC COMMITTEE CHAIRMAN

Chairman Hall stated “I have asked Commissioner Williamson if he would chair this committee. It would be my expectation that the County Manager, our IT person, someone from the Tax Office, Health Department and DSS be a part of that committee. As we move forward I am sure Commissioner Williamson will schedule and let us know what is being scheduled. I anticipate getting more information from NACo to help us with what we are looking at. I am not only thinking about cyber security but records security for the County IT.”

GRANT ADMINISTRATIVE ISSUES

Mr. Howard stated “We have talked about this at the last couple of meetings. The current grant administration is with Hobbs Upchurch and Associates. We have to either get approval from the

state to use the staff that they have hired to replace the others or go out and do a proposal process to hire a new administration. I have spoke with Department of Commerce and the Housing Finance both the grants we have open right now and they both have agreed that the new staff that Hobbs Upchurch has hired is satisfactory. They are okay with them and if we chose to proceed with Hobbs Upchurch and the new staff I can send an email to them stating that we will proceed with them and move forward.”

Chairman Hall stated “We have a contract with Hobbs Upchurch unless they fail to perform in some way I don’t think it would be appropriate for us to do anything otherwise but to proceed with them. We have this on the agenda because there were issues that came up.”

Commissioner Lucas asked “How far in the process are we?” Mr. Howard responded “We are about a year and a half into the Scattered Sites grant and we are about three quarters of the way through the grant for NC Housing Finance.” Commissioner Lucas asked “What would be the recommendation of the attorney?” Mr. Ferrell responded “My recommendation is if you are going to decide to go into a difference direction not to use Hobbs Upchurch that you not make that decision tonight because that has implications i.e. terminating two existing agreements that you would need to hear more about from me. If the state has said that the new staff is acceptable to them and we have not had an particular performance issues essentially there have been no breach that I am aware of with the existing contracts then essentially they are just changing personnel and you are going to inform the state of that new personnel to go on through this projects that are well underway. If the Board wanted to go into a difference direction my recommendation would be that we discuss the implications of what would be essentially terminating two existing contracts before you made that decision.”

Chairman Hall stated “There appears to be no action to be taken so we will move on.” Commissioner Lucas asked “Are you waiting for action?” Chairman Hall responded “Not necessarily unless you are proposing someone else.”

Mr. Howard stated “I would like to say that these two grants are sitting right now. We have contractors that have done work and we cannot pay them until the state approves to administer these grants. My recommendation would be that we move forward with Hobbs Upchurch to get these grants moving again and not delay them anymore. If they become issues in this process we can look at those contracts if they are not performing as needed.”

Commissioner Lucas asked “Chairman Hall do I need to make a motion to move forward with Hobbs Upchurch?” Chairman Hall responded “No.” Mr. Howard asked “So with no action we can move forward?” Commissioner Lucas responded “They can move forward.” Mr. Howard stated “I just wanted to make sure.”

APPROVAL OF RFPs FOR CDBG SCATTERED SITE GRANT

Mr. Howard stated “Mr. Chairman we received four proposals for our 2011 Scattered Sites grant cycle. You have the proposals in your packets. They were received from, in alphabetical order, Benchmark, Carolina Governmental Services, Hobbs Upchurch & Associates and Stephen Austin. You have at your desk, I failed to include my scoring sheets when I gave those out to

you, there is a matrix there at your seats. Basically what I ended up with was a tie between Benchmark and Carolina Governmental Services for different reasons. Each one was based on Previous Experience, Ability to Complete Projects on Time, Experience of Firm, Understanding the Needs of the County, Not to Exceed Fee. They both came in as a tie. I want to give you the Not to Exceed Fee for each firm, I failed to include that: For Benchmark CMR, their fee was \$44,000 to provide administrative services; Carolina Governmental Services was \$60,000; Hobbs Upchurch did not show a lump sum fee. They only included their fee schedule like the other did and Stephen F. Austin was \$76,000.”

Commissioner Lucas moved, seconded by Commissioner Travis to accept the low bid from Benchmark for \$44,000. The motion carried unanimously.

APPOINTMENT OF (1) TRUSTEE POSITION ON THE FIREMEN’S RELIEF FUND – LEASBURG VFD

Mr. Howard stated “The Board has appointing authority of this. They have had one position that has come open and they have requested this Board to appoint Mr. Kelly Pulliam to serve on that trustee board.”

Commissioner Lucas moved, seconded by Commissioner Jefferies to appoint Mr. Kelly Pulliam to the Firemen’s Relief Fund – Leasburg. The motion carried unanimously.

COUNTY MANAGER’S REPORT

Mr. Howard stated “This is just information. You have enclosed in your packets information to read. It is the preliminary report from Holland Consulting Planners that was presented to the Planning Board at their last meeting. It is just in here so you will know where they are at and what it going on. I just want to clarify that there is one clarification in it. On the first page it mentions Zoning Ordinance that is actually talking about the Hyco Lake zoning ordinance. Those are the changes for that particular ordinance that we have. I have updated copies if you would like one.”

Commissioner Lucas stated “Chairman Hall I just wanted to emphasize how important that is in that UDO information because when Mr. Holland was reporting to the Planning Board on his update at the Planning Board meeting on the UDO he kept referring to your local zoning ordinance and he was actually speaking about the Hyco Lake zoning ordinance. When we went through the summary of what he had thus far on the UDO it was mostly about the Hyco Lake zoning ordinance. Just for clarification purposes so it does not get out into the general public that we are now planning a zoning ordinance for Caswell County it specifically needs to say Hyco Lake zoning ordinance. I think you got it changed but he said before it goes out to the public it would be corrected not just zoning ordinance but Hyco Lake zoning ordinance. A lot of people may not even be aware that we already have Hyco Lake zoned.”

ANNOUNCEMENTS AND UPCOMING EVENTS

- A. Meeting with Town of Yanceyville & Town of Milton – Tentative Date of October 30, 2012 @ 6:00 p.m.

Mr. Carter stated “I read this and correct me if I am wrong but I was reading the audit from Winston, Williams, Creech, Evans & Company audit for the ABC Board and I wanted to point out a couple of things. Where the auditors went in and it said ‘the Caswell ABC Board exceeded the authorized appropriations by the governing board for administrative activities by \$8,232. This over-expenditure occurred because allocations between departments were different than originally expected.’ and then it says ‘The Caswell County ABC Board has an inadequate deposit schedule for all four stores under its control.’” Chairman Hall responded “I think that their Board will have to respond to that audit. We will certainly monitor it. It is our responsibility only to appoint members to that Board.”

Commissioner Lucas stated “The Pelham Pork Jam is this Saturday. It is for the Pelham Fire Department. I just wanted to remind everyone about that.” Commissioner Williamson asked “Do you know what time that starts?” Commissioner Lucas responded “Generally around 10:00, the opening ceremony.”

ADJOURNMENT

At 8:00 p.m. Commissioner Travis moved, seconded by Commissioner Jefferies to adjourn. The motion carried unanimously.

Paula P. Seamster
Clerk to the Board

Nathaniel Hall
Chairman
